



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE EVENTS LEADING TO THE CHINESE EXCLUSION ACTS.

BY MILDRED WELLBORN.

CALIFORNIA'S ATTITUDE TOWARD THE CHINESE.

The first Chinese who came to California were well received and treated with favor. The "*Daily Alta Californian*" of May 12, 1852, says: "Quite a large number of the Celestials have arrived among us of late, enticed thither by the golden romance that has filled the world. Scarcely a ship arrives that does not bring an increase to this worthy integer of our population. The China boys will yet vote at the same polls, study at the same schools, and bow at the same altar as our own countrymen."

In the ceremonies commemorating the death of President Taylor, the Chinese were given a prominent part in the program, and in the celebrations of Admission Day the Chinese took part in the parade, professing themselves loyal citizens of the United States. Their loyalty to the better class of citizens, and to law and order was shown by their contributions to the funds of the Vigilance Committee.

Governor McDougal spoke of the Chinese as "one of the most worthy classes of our newly adopted citizens," and in another connection stated that "the further immigration and settlement of Chinese is desirable." On the whole, these words of the Governor may be taken as representing the attitude of Californians in general during the earliest period of the Chinese residence in our state.

The cleanliness, unobtrusiveness and industry of the Chinese was often commented upon. Although most of the Chinese immigrants came from strictly agricultural districts, once in America, they seemed capable of turning their hands to anything and everything. In the mines, on the railroads and ranches, in laundries, in certain manufactories, in hotels and family kitchens, as cooks and domestic servants, the Chinese proved good workers. In those days, laborers were scarce, and for that reason the Chinese were welcomed.

The first dissatisfaction towards the Chinamen appeared in the mines. Here the Chinese were content with \$5.00 or \$8.00 per day, while the whites wanted \$16.00 or \$20.00. In spite of their much smaller daily earnings the Chinese, because of their industry, perseverance and thrift and their ability to live on a mere pittance, in the

long run, accumulated more gold than did many of the more reckless and extravagant whites. Moreover, when working for wages, the Chinese were content with such small pay that the price of labor tended to decrease.

The first exclusion acts, although entirely extra-legal were nevertheless thoroughly effective. In 1849 the Chinese were expelled from Chinese Camp, a mining camp eight or ten miles south of Sonora. In Columbia district in Tuolumne county, no Asiatics or South Sea islanders were allowed to mine for themselves or others, and no one was allowed to sell a claim to an Oriental.

Meantime an anti-Chinese feeling was springing up in other parts of the state, particularly in San Francisco. This was partly due to a change in the class of immigrants. The first comers had been chiefly merchants, and those possessed of a rather adventurous and ambitious spirit. But the organization of the Chinese Six Companies for the importation of contract labor, brought to America not only many of the poorest and most ignorant class of Chinese laborers or "coolies," but also many who were morally deficient or criminal. The first of these classes flooded the labor market with cheap labor, and the second class added to the already unstable moral conditions of the new West, saloons, gambling dens, opium dives and homes of vice. The moralist saw in the Chinese a people far from practicing the precepts of their own Confucius; a people who won the confidence of their masters and then proved treacherous; a people who had no respect for chastity, many of their women being prostitutes; a people given to gambling, living in filthy places and keeping opium dens of disgust and horror; a people, however, to be civilized and converted. The politician saw in the Chinese a people dangerous to American institutions. The Chinese lived together, had secret societies or "tongs," maintained a sort of government among themselves, usually refused all efforts of the Californians to give them an American education, or benefits of the Christian religion, and in general refused to assimilate any of the American customs or practices. The philosopher thought it his duty to educate the stranger within his gates, but on the whole had to admit his failure.

It was the capitalist who appreciated the Chinaman most. For the development of the great ranches and the necessary systems of irrigation, and for the construction of the long-dreamed-of transcontinental railways, cheap labor was a necessity. The Chinese were the only race who could and would furnish it. Thousands were imported by the Six Companies especially for the railroads. Bancroft says of the Chinese: "Without their aid must have been deferred the construction of railroads to facilitate the introduction of white labor, the opening of ditches, reclamation of land, planting of

vineyards, establishment of manufactures, . . . which all helped to provide more employment for superior white men and for capital."

The laboring men evidently did not recognize this service the Chinamen had done for them by literally paving the way to California. Strange as it may seem and crude as were the sailing vessels of those days, before the building of the trans-continental railroad, it was an easier and more comfortable trip across the Pacific from China to California than across the plains from the Mississippi to the Golden Gate. While there were many among the laborers who believed that California was a land for all, the yellow as well as the white, yet as a class they were very bitter against the Chinese, and often expressed this bitterness in the most violent ways.

The first objection to the Chinese as given by the workingmen was that the presence of the Chinese reduced the wages of the laborers, but increased the profits of the capitalists. However, it is doubtful if the Chinese actually made any perceptible change in the labor market, except for a period of from six to ten years from 1863 to about 1875, and then not because labor was too abundant, but because money was scarce. The more fundamental cause for the anti-Chinese sentiment is probably to be found in race prejudice.

While this anti-Chinese feeling was developing, the Chinese continued to hold their own. Gardening, farming, laundry work and cooking were almost monopolized by them. They were employed by the railroads, worked in the mines and in at least some manufacturing, such as shoe-making and cigar-making. But still they remained aliens. The result was the practical exclusion of white labor,—first a voluntary exclusion, because the whites refused to work beside the Chinese, and second an involuntary exclusion, because the employers preferred the cheaper Chinese labor.

THE CHINESE QUESTION IN STATE POLITICS.

The Chinese question came up for discussion in the legislature of 1852. The Constitution of '49 had provided that all foreign residents should enjoy the same property rights as native-born citizens. But the anti-Chinese feeling had hardly begun in '49. By '52, however, it had developed into a question of considerable importance. Bigler, who was candidate for governor, made political capital of it, and when elected tried to get the legislature to pass anti-Chinese measures, and was very much displeased at their failure to do so.

In the legislature of '53 the Committee on Mines and Mining Interests reported that the fear that too many Chinese were coming

to California was entirely unfounded and that Chinese trade should be encouraged. Moreover, an attorney representing the Chinese Six Companies testified before this committee that there was at that time no contract labor in the state. The next year California sent a resolution to Congress asking that a tax be placed upon each Chinese or Japanese coming to the United States, the tax to be paid by the importing vessel before landing the immigrant.

California attempted to levy such a tax, but was stopped on constitutional grounds.

Meantime in the mining camps the opposition to the Chinese had been growing or was manifested by riots and attempted lynchings. Consequently this same legislature of '55 raised the Foreign Miners' Tax from four to six dollars per month. The following year there was a petition for the reduction of this tax, and for an end to their "exclusion by taxation policy." Bigler objected because of this anti-Chinese sentiment and the Senate objected because it would lower the state revenues. Nothing was done that year, but the following legislature raised the tax to eight dollars, the next session to ten and so on for each succeeding year. As a result of this increase in the license tax, almost all the Chinese gave up mining. Many of them returned to China, and others congregated in the cities. In losing the three dollar tax which the Chinese had formerly paid the state lost \$200,000 annually.

The discovery of a new vein of gold was sufficient to draw many Chinese back to the mines in spite of the high tax. The income from this tax in 1863 was \$187,000, but it dropped to \$80,000 in 1867. This was another tax difficult to collect, but it was made unconstitutional in 1871 by the adoption of the fifteenth amendment to the Federal Constitution and the Act which was passed to enforce it.

In 1859 the anti-Chinese feeling reached such a pitch among the miners that Governor Weller had to send a company of the militia to put down riots in Shasta county. Not content with taxing the miners, in 1862 a tax of two and a half dollars was levied upon all Mongolians over eighteen years of age, who were not engaged in the production of rice, sugar, tea or coffee. The next year this tax was declared unconstitutional.

During the years of the Civil War the people had their attention diverted from local to national affairs, and from contract coolies to negro slaves. But in spite of more urgent and important questions of the day, the Legislature of 1862 appointed a committee which conferred with prominent Chinese officials and reported that there were 50,000 Chinese in the state, who had paid in taxes, license and trade, about \$14,000,000 to the state community; that there was

comparatively little competition between the Chinese and the whites; that there were no contract laborers; that the Chinese were not inordinately immoral; that they had been the victims of a system of wrongs and outrages; and that it would be most advantageous for the United States to maintain friendly commercial relations with China.

It was during this period that the large number of Chinese were imported for work on the Central Pacific Railway. In 1864 there were 1,000 whites, all that could be obtained, and 3,000 Chinese working on the railroad. During the years 1865-9 there were the same 1,000 whites and 9,000 Chinese. In reporting to the Legislature of '65, Mr. Stanford said that the Chinese were peaceable, industrious and economical, apt to learn and quite as efficient as white laborers.

After the war the labor issues again became prominent. The workingmen formed anti-Chinese societies and asked the Republican candidate for governor to answer certain questions regarding the Chinese problem. The answers were guarded, and therefore unsatisfactory to the hot-headed Irish of which the working class was largely composed. As a result, Haight, the Democratic candidate, was elected. Haight was strongly anti-Chinese, and favored complete exclusion, although he could not see why the Chinese were not as much entitled to the franchise as the negro, meaning that he thought neither should have it.

The completion of the railroad in 1869 and the consequent discharging of about 9,000 Chinese flooded the labor market with low-wage workers. The malcontents had more cause than ever for their complaints. The Democratic platform of that year was out-and-out anti-Chinese. The Republicans could not avoid the question and so recommended the restriction of Chinese immigration by constitutional and congressional measures. Here it must be noted that in 1870 the Federal Legislature extended the Naturalization act to include not only white persons as before, but also persons of African nativity and descent. By interpretation the Chinese were, and still are, excluded from the privileges of naturalization.

In 1871 it was evident that the party which carried the workingmen's vote would win. The Republicans, by the adoption of certain planks, among them an anti-Chinese program, in their party platforms, were able to carry the election. Once in office the tone of their Chinese agitation became much more moderate.

In 1873 there was a sort of a panic, followed in '74 and '75 by a time of temporary prosperity, especially for the capitalists. These years saw the beginning of Kearneyism and the Workingmen's Party. It was this party and this movement which were largely

responsible for the cruel and unjustifiable outrages that were perpetrated upon the Chinese.

The Republications drew up a resolution criticising the Burlingame treaty just negotiated, while the Democrats held a mass meeting by way of directing the wrath of the people toward the unfortunate Chinese. As a result the passions of the unemployed were so aroused that a three days' riot ensued. The governor seemed powerless; a Vigilance Committee was formed to restore peace and order.

* * *

A new state constitution was to be formed. Kearney stumped the state, and got a majority of workingmen in the Constitutional Convention. The new constitution is strongly anti-Chinese. It stipulates that the Legislature should provide for the protection of the state from the presence of aliens who are detrimental to the well-being of the state. Aliens incapable of becoming citizens are then declared dangerous, and it is the duty of the Legislature to discourage their immigration by every means in its power. Asiatic coolyism is called "a form of human slavery," and a penalty is placed upon companies importing contract laborers. The nineteenth article was especially stringent. Under it no corporation existing or to be formed under the laws of the state should employ Chinese directly, indirectly or in any capacity. No Chinese were to be employed on any public works except in punishment of crime. This article and also the statute passed to enforce it were both declared unconstitutional.

THE CHINESE QUESTION IN FEDERAL POLITICS AND DIPLOMACY.

With most of the anti-Chinese legislation of California declared unconstitutional, it was clear in 1876 that the problem must be solved by the Federal government. Both the great national parties adopted anti-Chinese policies. The California Legislature appointed a committee to investigate Chinese immigration. Their report was published in an "Address to the People of the United States upon the Evils of Chinese Immigration." These evils they summed up as (1) Prostitution, (2) Criminality, (3) Non-conversion, (4) Competition, and (5) Coolie-slavery. In another document called the "Memorial to Congress" three remedies were proposed: (1) Coöperation with Great Britain in suppressing the coolie trade, (2) Abrogation of all existing treaties which permitted Chinese immigration, and (3) Congressional enactment prohibiting more than fifteen Chinese to land at any one time and place.

In spite of the fact that the "Memorial" was drawn up by Californians who should have been familiar with the situation, it shows

great ignorance, for the coolie trade was already prohibited by both Great Britain and the United States. Hittell remarks that the chief result of the "Address" and "Memorial" was "to furnish anti-Chinese thunder for the demagogue of the San Francisco sand lots."

Just before the opening of the Forty-fifth Congress the "Address" and "Memorial" were printed and distributed to Congressmen and officials throughout the country, and a committee was sent to Washington to work up anti-Chinese sentiment before the opening of Congress.

When the session began in 1876 a Joint Special Committee was appointed to come to the coast to investigate. They sat for nineteen days in San Francisco and Sacramento, heard 129 witnesses, took 1,200 pages of testimony and made a report of two pages.

According to Mrs. Coolidge, the testimony was undoubtedly pro-Chinese, but was perverted to make an anti-Chinese report.*

With this report in Congress many bills were presented. The most important of these and the only one which reached the third reading was the one known as the "Fifteen Passenger Bill." Its purpose, following out the suggestion of the California "Memorial," was to prevent more than fifteen Chinese from coming to the United States at any one time in any one vessel. Both houses passed the bill. President Hayes vetoed it, and it failed to pass over his veto.

California was much disappointed, but blamed the excesses of Kearneyism for the defeat of the measure. The *Placerville Herald* summed up this attitude by saying "The question is not whether John Chinaman shall go, but whether Kearney shall stay." The question was partially dropped in Congress for a time, and when taken up again led directly to the Exclusion Acts. Before studying these Acts we must notice the treaty relations between the United States and China.

The first American-Chinese treaties were purely commercial and not particularly concerned with the rights of citizens of one country living in the other. The American minister in China from 1861 to 1867 was Anson Burlingame, who had the good fortune to be in the confidence of Prince Kinig, Regent of the Empire. This regent appointed Burlingame to represent China in making treaties with other foreign nations, and to amend the existing treaty of 1850 between the United States and China. This treaty as amended is known as the Burlingame treaty. Its provisions may be briefly given as follows: (1) Mutual protection of citizens on

*Coolidge, pp. 84-95.

each other's soil; (2) The freedom of religious beliefs and exercises; (3) The right of a citizen of either country to reside in the other country at will, with the privileges of citizens of the most favored nation; (4) The right to prevent involuntarily immigration; (5) The right to establish a system of currency and commerce; (6) The admission of Chinese to the public schools in America and the right to establish American schools in China. The Fifteen Passenger Bill was vetoed because it violated this treaty.

In 1880 a Commission was appointed to negotiate a new treaty. The Commission was not given any formal or public instructions, but the tacit understanding seemed to be that they were to secure a treaty that would make Chinese exclusion possible and effective. The Emperor was quite willing to prevent the emigration of laborers, criminals, prostitutes and diseased persons. The final form of the treaty made the following revisions in the Burlingame treaty: (1) The admission of laborers might be regulated, limited or suspended, but not entirely prohibited for a period of ten years; (2) This limitation was to apply only to laborers, the exempt classes being such as body and household servants, teachers, merchants and travelers; (3) The Chinese in America were to be protected from violence. Chinese already in this country and wishing to visit China might obtain certificates permitting them to reënter our ports. The Act of 1882 to execute the provisions of this treaty is the first of the series known as the Chinese Exclusion Acts.

The intention of the treaty as shown by the wording of the document itself and the papers of the Commissioners was that only the laborers and undesirable classes should be excluded. The Federal courts, however, interpreted "laborers" to include all except teachers, traders, travelers and students. Persons of the exempt classes were required to present certificates of identification. The Chinese found many clever ways to have themselves smuggled in, but in justice to the Chinese we must say that their government tried to prevent such evasions of our laws.

Six years later (1886) negotiations were begun for a new treaty which would absolutely prohibit the immigration of Chinese laborers for a period of twenty years. This was not to apply to those returning to the United States from a visit to China of less than one year in length, provided the returning visitor had left a wife, child, parent, or property worth \$1,000 in this country. The exempt classes were to be admitted only by presenting a certificate signed by the consul at the port of departure. While the right of naturalization was still denied to the Chinese, they were promised the same protection as would be given to citizens, and \$276,619.75

were paid as indemnity for losses already suffered by the Chinese in the United States.* The Senate immediately ratified the treaty, but China was not so prompt. She made objections, as well she might.

While the treaty was pending, Congress passed an act embodying the provisions of the treaty and putting it into effect.† The Chinese minister protested, but to no avail. When news came early in September that China had postponed ratification of the treaty for still further consideration, it was urged that the bill must be passed in spite of the fact that it was opposed to the existing treaty. It was just before the elections. Both parties wanted the votes of the Pacific states. Consequently not only this bill, but also another one, amendatory in nature and providing that laborers absent at the time could not return and that no more certificates were to be issued, were both passed. This latter measure, the Scott Act, was passed in the face of Chinese opposition, and in spite of the fact that wages in California were constantly rising, so that in most occupations the minimum wage in San Francisco was higher than the maximum of the East.

China continued her protests, but to no effect; the Geary Act of 1892 continued all anti-Chinese legislation in effect for a period of ten years. Moreover it placed the burden of proof of the right to remain upon the Chinese themselves. If it were found that they were in the country illegally they were to be deported. But before deportation they might be kept imprisoned at hard labor for one year. The courts found this clause unconstitutional unless the sentence to imprisonment was given as punishment, after a fair, judicial trial. All Chinese in the country were supposed to secure certificates of residence in order to avoid arrest and deportation.

This act proved hard to enforce. Consequently another act (1893) further defined the terms "merchant" and "laborer," in the attempt to make the former law easier to enforce.

In 1894 a new ten-year treaty repealed the provisions of the act of 1888 forbidding laborers who had departed to return. In 1902 the anti-Chinese legislation was extended to the islands belonging to the United States, and Chinese in the islands were forbidden to come to the States except under the same conditions as apply to those coming directly from China. Two years later (1904) the McCreary amendment extended these provisions regardless of time.

This is the present legal status of the Chinese question. In practice the immigration officials, especially those of San Francisco,

*Known as the "Abortive Treaty of 1838." Coolidge, p. 194, gives summary of.

†Known as the "Chinese Exclusion Acts." U. S. Statutes-at-Large, XXV, 476-479.

have often taken the interpretation, and administration of the laws as interpreted, into their own hands, and so have often mistreated and insulted the Chinese coming to our country. On the other hand, many Chinese have come in, and attempted to come in, fraudulently. This does not, however, entirely justify the attitude of the immigration officers at the ports of entry. Moreover, a large part of the smuggling in of Chinese immigrants has been due to the unfair administration of our laws. It must be said that all such smuggling of Chinese, and mistreatment of them by the American officials, are discountenanced by their respective governments.

Since the McCreary amendment Chinese immigration to this country has greatly decreased. Hence we have almost forgotten the Chinese question and have turned to the Japanese instead, as exemplified by the School Question of 1907 and the Alien Land Law of 1913.

CONCLUSION.

It appears to the present writer that the fundamental question is racial, not economic, although the economic element has undoubtedly played its part. On the basis of the great age-long differences between the Chinese and the Americans, amalgamation is very unwise, at least,—perhaps impossible. For this reason exclusion may be the only wise policy for the United States to pursue. But even if the Chinese are prohibited from becoming a part of our body of citizens, it would be both impossible and unkind, at this time when China is looking to the United States for help and guidance in the formation of the new republic, to prevent the Chinese from coming to our country to travel and study and learn of us. So, although we maintain a general policy of Chinese exclusion, we should treat all those who do come so that they may take back to changing China the best that America can give them.